

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DAVID W. SCHWEIZER and DEBORAH  
K. SCHWEIZER,

Plaintiffs,

1:12-cv-322-CL

**TEMPORARY RESTRAINING ORDER**

v.

BANK OF AMERICA, N.A. and  
RECONTRUST COMPANY, N.A.,

Defendants.

---

**PANNER, J.**

Plaintiffs seek an ex parte temporary restraining order to enjoin the foreclosure sale of their house. Plaintiffs allege the house is scheduled for a foreclosure sale on March 20, 2012 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Amongst other arguments, plaintiffs allege defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee

Services, Inc., 2011 WL 2119103, \*3 (D. Or. May 25) (internal citation omitted; In re McCoy, 2011 WL 477820, at \*3-4 (Bankr. D. Or. Feb. 7)); James v. Recontrust Co., et al, 2012 WL 653871, at \*19-20 (D. Or.). Plaintiffs allege MERS is listed as the beneficiary on the deed of trust at issue.

Because of the alleged imminent foreclosure sale, and because the presence of MERS demonstrates a high probability that defendants did not comply with the recording requirements of the Oregon Trust Deed Act, I grant plaintiffs' request for a temporary restraining order (#3). Defendants, and their officers, agents, etc..., and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale for the following property: 1407 Twin Pines Court, Central Point, Oregon, from this day until Wednesday, March 21, 2012, at 5:00 p.m. This court will hold a hearing on whether to issue a preliminary injunction at 10:00 a.m. on March 21, 2012, in the James A. Redden Courthouse in Medford.

IT IS SO ORDERED.

DATED this 9 day of March, 2012 at 9:00 o'clock    .



OWEN M. PANNER  
U.S. DISTRICT JUDGE